

REMARKS

Claims 1 to 86 were pending in the application at the time of the advisory action. Claims 1 to 4, 10 to 13, 19 to 22, 28, and 30 to 32 remain rejected for obviousness type double patenting. Claims 1, 10, 19 and 28 remain rejected as anticipated. Claims 2 to 9, 11 to 18, 20 to 27 and 29 to 86 remain rejected as obvious.

Applicant respectfully notes that the advisory action documents that improper positions have been taken by the Office and that improper rejections have been made. However, rather than submit a Petition to the Commissioner to correct the errors, Applicant has filed this RCE in an attempt to expedite prosecution.

Claims 1 to 4, 10 to 13, 19 to 22, 28, and 30 to 32 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 3 and 5 of U.S. Patent Application Publication Number 2004/0064719 of U.S. Patent Application Serial No. 10/243,355, hereinafter referred to as the '719 publication.

With respect to maintaining the obviousness double-patenting rejection, the advisory action stated:

Applicant argues that the rejection is not valid because the claims of the pending application are now amended and do not make the claimed invention of the instant application obvious. However, the amendments to the cited reference raise a new issue and require further consideration. Therefore the amendments are not entered.

This statement is non-sensical. No amendments were presented in the response to the Final Office action and so a refusal to enter amendments has no basis. This form statement simply is not applicable.

In addition, the statement relies upon an improper and unfounded technical rather address Applicant's remarks on why the rejection was well-founded. Thus, the Office has not assisted in moving prosecution forward. In view of the new rules, this is unacceptable.

In addition, Applicant pointed out in the paper dated March 21, 2007 that the currently pending Claim in the application on which the '719 publication was based was different from that in the publication. Nevertheless, the final rejection repeated the rejection based on a claim in the publication that had been amended. Therefore, the Final Action was incomplete at best.

Finally, the claims in Serial No. 10/243,355 were amended in a paper submitted to the USPTO on August 3, 2006. The first action in this application was mailed on December 22, 2006. Accordingly, the amended claims that were refused to be considered in the advisory action were entered more than one year prior to the advisory action. Therefore, to assert in the advisory action that Applicant's remarks will not be considered because the Office failed to consider the proper claims in two actions is an admission that the RCE should be unnecessary and also that the prior rejections were not well founded. To assert that amended claims in another application that were submitted at least four months before the first action in this application is a basis for not considering Applicant's remarks in response to the Final Office action has no basis.

Since the Office has failed to provide a proper basis for the obviousness-type doubling patenting rejection of each of Claims 1, 10, 19, and 28, the rejection has no basis and should be withdrawn. Applicant respectfully requests reconsideration and withdrawal of the obviousness-type double patenting rejection of each of Claims 1, 10, 19, and 28.

Claims 2 to 4, 11 to 13, 20 to 22 and 30 to 32 distinguish over Claims 1, 3 and 5 of the '719 publication at least for the same reasons as the Claim from which each depends. Applicant respectfully requests reconsideration and withdrawal of the obviousness-type doubling patenting rejection of each of Claims 2 to 4, 11 to 13, 20 to 22 and 30 to 32.

Claims 1, 10, 19, 28, 33, 50, 67 and 84 are amended. The amendments simply move a definition from the specification into the claims. Applicant notes that the MPEP requires "Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim." MPEP § 2106, 8<sup>th</sup> Ed., Rev. 5, pg. 2100-7 (August 2006.) The specification recites "In the context of the present invention, the term "delivery parameter" describes any value used to determine the destination or target device to which digital content is delivered." Paragraph [0029], pg. 22 of the Specification. Clearly, the element "delivery parameters" has not been interpreted as required by the MPEP in view of this definition. Accordingly, to avoid discussions on whether Applicant is requesting a limitation be read into the claims, the claims have been amended to include the definition.

Claim 50 is also amended to correct an informality introduced by a prior amendment.

Claims 1, 10, 19, and 28 remain rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0208681, hereinafter referred to as Muntz. The rationale for maintaining the rejection in the Advisory Action stated in part:

However, the rejection clearly cites paragraph 19 of Muntz, which show that the metadata server sends the request received from the client back to the client, along with credentials for the request (delivery parameters). Therefore, the rejection meets the cited requirement, and applicant's argument relative to rejection of claim 1 is not persuasive. Accordingly, applicant's argument relative to rejection of claims 10, 19, and 28 is found non persuasive.

Applicant respectfully traverses the anticipation rejection of each of Claims 1, 10, 19, and 28. Applicant notes that the rejection reduces "one or more delivery parameters identifying a target device to receive said digital content." to credentials. However, the rejection failed to cited any teaching in Munz that the credentials

identified a target device, i.e., determined the target device to receive the digital content. In particular, Paragraph [0019] stated:

[0019] At arrow 224, client 105 may transmit its request to indicated metadata server 214. At arrow 225, metadata server 214 may return a block list including a validation mechanism to client 105. In one embodiment, the validation mechanism may include a token including credentials for the requested access. The token will be described further below with respect to FIGS. 3-5.

Muntz failed to teach that the block list or the credentials were used in determining a target device to receive the digital content. In particular, Muntz taught:

Block lists describe actual physical sectors on a memory resource, allowing a storage server to handle the actual data transfer to and from a file system resource

Muntz, Paragraph [0002].

Thus, a block list fails to identify a target device to receive the digital content. Physical sectors on a memory resource used by a storage server teach away from a target device that receives the requested digital content.

With respect to a token, Muntz taught.

Token generator 334 may generate a token 336 containing credentials, such as operation type(s) authorized for the client (or privilege) for the current requested operation, associated block lists, and the like. Precise content of token 336 may be customized. In one embodiment, token 336 may include privilege, validity period, authority signature and beneficiary. Token 336 may also include a time stamp to indicate the validity period. Token 336 may be re-stamped at every lease period by metadata server 214. In one embodiment, a network time protocol ("NTP") may be used to synchronize the different clients

Muntz, Paragraph [0023].

Credentials, privilege, validity period, authority signature, beneficiary and time stamp, as taught by Muntz as being the content of the token, fail to teach parameters

that determine a target device for delivery of digital content. Muntz explicitly taught the credentials were for things such as operation type authorized for the client and not identifying a target device. Thus, each of Claims 1, 10, 19, and 28 distinguish over Muntz for multiple reasons. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of each of Claims 1, 10, 19, and 28.

Claims 2 to 9, 11 to 18, 20 to 27, and 29 to 86 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Muntz and official notice for each of the claims. The advisory action stated:

There is no specific requirement for data to be suitable for transmission using URLs. Muntz Fig. 1 shows that the client, administrative server, and other elements of Muntz system transmit and receive the credentials, block list and other parameters over a communication network. Muntz clearly relies on existing modes and protocols of communication to transfer data between parties. Therefore it would have been obvious to the one skilled in art to use URLs (an existing and broadly practiced means for data transmission) as a means to transmit the credentials and other parameters associated with Muntz's authentication scheme.

The same argument applies for use of tokenized URL to transmit authentication parameters. Applicant's use of a well-known method to transmit data does not distinguish their invention from prior art.

The advisory action failed to address the fact that Applicant pointed out that the rejection "failed to demonstrate how knowledge of a tokenized URL teaches or suggests anything concerning a token pool." The rejection has repeatedly failed to consider explicit claim limitations:

determining a token pool associated with said digital content;  
determining a token in said token pool; and  
creating a tokenized URL based at least in part on said token

as recited in Claim 2. A same or equivalent limitation is found in each of Claims 11, 20 and 30. General knowledge concerning a tokenized URL fails to teach anything about how the token is determined in the two operations recited in Claims 1, 10, 19, and 28, or a token pool associated with the digital content. Thus, each of these claims was reduced to a gist, a tokenized URL, and then official knowledge was used without consideration of the background of either Muntz or Applicant's Claims. Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of each of Claims 2, 11, 20 and 30.

Claims 3 and 4 depend from Claim 2. Claims 12 and 13 depend from Claims 11. Claims 21 and 22 depend from Claim 20. Claims 31 and 32 depend from Claim 30. Thus, each of Claims 3, 4, 12, 13, 21, 22, 31, and 32 distinguishes over the combination of references for at least the same reasons as the claims from which it depends. Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of each of Claims 3, 4, 12, 13, 21, 22, 31 and 32.

Claim 5 depends from Claim 1; Claim 14 from Claim 10; Claim 23 from Claim 19; and Claim 29 from Claim 28. Thus, each of Claims 5, 14, 23 and 29 distinguishes over the combination of references for at least the same reasons as the independent claim from which each depends. Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of each of Claims 5, 14, 23 and 29

With respect to Claim 6 to 9, 15 to 18, and 24 to 27, the advisory action stated:

With regards to claims 6 to 9, 15 to 18, and 24 to 27, applicant argues first with regards to claim 6 that the claim is not directed at encryption, but a serial number, so the rejection fails to consider claim as a whole. However, the argument does not discuss the merits of the rejection, and fails to present any reason to substantiate the allegation that the rejection is failing to consider claim as a whole.

With respect to Claim 6, Applicant stated:

First, Claim 6 is not directed at encryption, but a serial number and so the rejection failed to consider the claim as a whole.

The rejection of Claim 6 stated "paragraph 23 shows the credentials of the user and client are part of the authorization process." As quoted above, Paragraph 23 fails to teach or suggest anything concerning a serial number of any device and in fact teaches that such information is unnecessary.

Claim 7 to 9 further define the delivery parameters of Claim 1; Claims 15 to 18, the delivery parameters of Claim 10; and Claims 24 to 27, the delivery parameters of Claim 19. As previously pointed out in an obviousness rejection, the reference must be considered as a whole. Muntz taught that keys were not transmitted to the client as asserted in the rejection and rather "Servers 214, 216 may negotiate the session key and the security parameters associated with it (e.g., algorithms, life time, etc.)." Muntz, paragraph [0028]. There has been no teaching or citation of why one of skill would do something different than that taught by Muntz. In fact, Muntz clearly had the knowledge relied upon in the official notice and chose not to utilize that information, as one of skill in the art. In addition, as noted above with respect to Claims 1, 10 and 19, and incorporated herein by reference, Muntz fails to teach anything concerning delivery parameters for a target device.

Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of each of Claims 6 to 9, 15 to 18 and 24 to 27.

With respect to Claim 33, 50, 67 and 84, there has been no teaching cited of delivery parameters as recited in these claims, a target ID, or the specific limitations recited in the claims. In addition, the advisory action stated:

Applicant further argues that claim 33 includes two specific input parameters, a timestamp Ti and a secret 64-bit seed. However, the mentioned limitations are not found in the claims at hand.

This completely misinterprets Applicant's remarks. The reference cited taught the timestamp and secret seed.

Applicant stated:

Second, Claim 33 does not recite just any two parameter key generation, but rather specifically defines specific limitations on how the target key and first key are obtained. Reducing the express claim limitations to just any encryption based on two keys is an improper form of analysis. Further, the inputs in the newly cited reference are not two keys as asserted in the rejection, but rather a timestamp Ti and another variable V, a secret 64-bit seed. (Emphasis Added.)

Thus, Applicant first explained the claim limitation and further expressly distinguished the reference by demonstrating that the reference has been mischaracterized. A timestamp and the seed are inputs to the process and not a target key and a first key. There has been no showing that one of skill in the art would equate the keys as defined in the claim with a timestamp and a seed and further the process in the reference has been mischaracterized. This is but further evidence that Applicant's remarks are not being properly considered. Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of each of Claims 33, 50, 67 and 84.

Applicant respectfully notes that Claims 34 to 49, 51 to 66, 68 to 83, 85 and 86 do not simply recite a token validation process. The rejection has at no time cited a token pool, or tokens in such a pool having different characteristics, or the tokens are associated with digital content. Moreover, if as asserted such information is widely known, it should not be a burden to provide a reference that supports the conclusory statements in the rejection. The claims have simply been reduce to a gist and the explicit limitations ignored. Applicant further points out that the MPEP expressly provides that Applicant is under no obligation to respond to a rejection that fails to establish a prima facie obviousness rejection. "If the




examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness." MPEP at 2100-125. Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of each of Claims 34 to 49, 51 to 66, 68 to 83, 85 and 86.

Claims 1 to 86 remain in the application. Claims 1, 10, 19, 28, 33, 50, 67 and 84 have been amended. For the foregoing reasons, Applicant(s) respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 27, 2007.

  
\_\_\_\_\_  
Attorney for Applicant(s)

September 27, 2007  
Date of Signature

Respectfully submitted,



Forrest Gunnison  
Attorney for Applicant(s)  
Reg. No. 32,899  
Tel.: (831) 655-0880